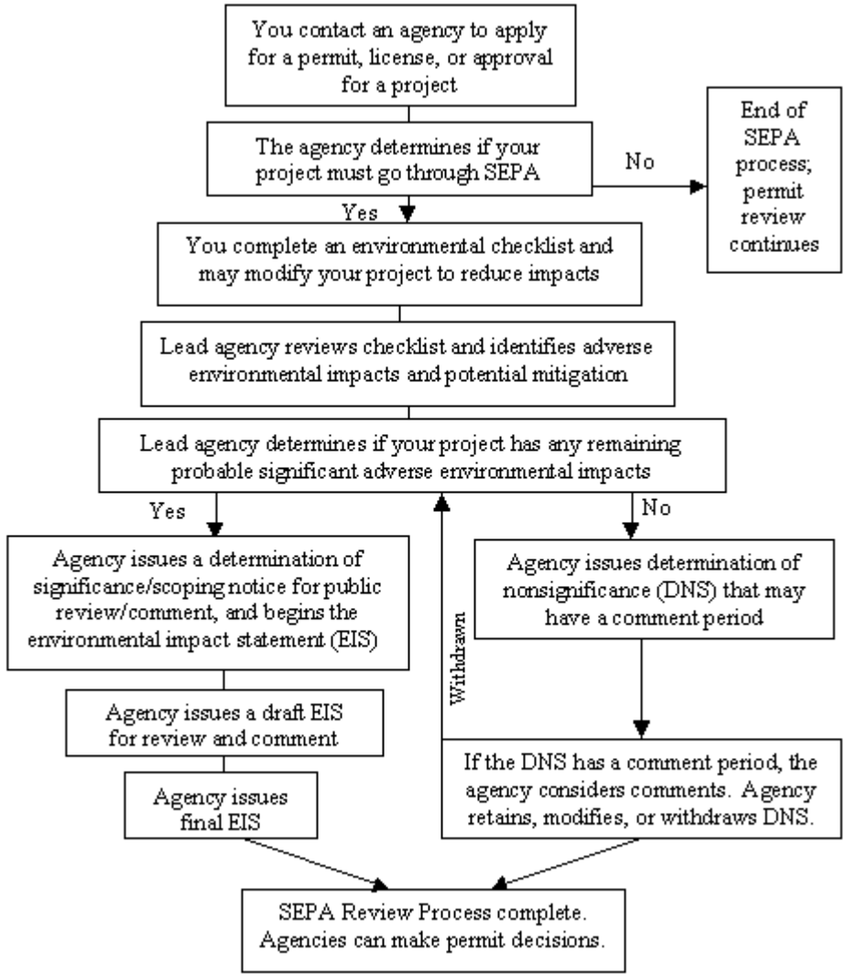
SEPA REVIEW PROCESS



SEPA Guide for Project Applicants

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Abstract: This volume's focus is to provide guidance to applicants whose proposals will undergo environmental review under the State Environmental Policy Act (SEPA).

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Additional Resources

The **SEPA Rules**, **SEPA Handbook,** and the **RCW** are available on the Internet at: http://www.ecy.wa.gov/programs/sea/sepa/e-review.html
Or call (360) 407-6924 to request a printed copy.

For additional assistance, contact the Ecology SEPA staff nearest you:

Headquarters, Lacey	**(360) 407-6922**
Southwest Region, Lacey	**(360) 407-6787**
Central Region, Yakima	**(509) 575-2012**
Eastern Region, Spokane	**(509) 456-6367**

SEPA Unit Email: sepaunit@ecy.wa.gov

Mailing address:
Environmental Coordination Section
Washington Dept of Ecology
PO Box 47703
Olympia WA 98504-7703

The Permit Assistance Center is available to help identify permits needed for proposals. The on-line permit assistance system (OPAS) at http://www.ecy.wa.gov/apps/opas/pac_start.html can help determine what permits are required for a project by answering a list of yes/no questions. A staff member can be reached at (360) 407-7037 or toll free at 1-800-917-0043. You may also visit them in person weekdays between 9:00 am and 4:00 pm at the Department of Ecology headquarters, 300 Desmond Drive, Lacey.

Guide to SEPA Terminology

Categorical exemptions: Part 9 of the SEPA Rules describes types of projects that have been exempted from SEPA requirements because they are unlikely to have a significant adverse environmental impact or were designated exempt by the legislature.

Determination of nonsignificance (DNS): A DNS is issued by the SEPA lead agency after they have determined that a proposal will have no probable significant adverse environmental impact or that all adverse impacts can be "mitigated" to a nonsignificant level.

Determination of significance (DS): A DS is issued by the SEPA lead agency after they have determined that a proposal is likely to have one or more significant adverse environmental impacts that should be evaluated in an environmental impact statement (EIS).

DNS: see "determination of nonsignificance"

DS: see "determination of significance"

EIS: see "environmental impact statement"

Environmental checklist: A form that asks questions about various aspects of a proposal and that is evaluated by the SEPA "lead agency" to identify potential adverse environmental impacts.

Environmental impact statement (EIS): An EIS is a document that includes analysis of probable adverse environmental impacts of a proposal, reasonable alternatives, and possible mitigation measures.

Lead agency: The SEPA lead agency is responsible for completing the environmental review of a proposal and issuing the necessary SEPA documents, so that all permitting agencies can make informed decisions.

Mitigation: Mitigation is avoiding, minimizing, rectifying (repairing), reducing, eliminating, compensating, or monitoring of environmental impacts.

Scoping: Scoping is the initial step in the production of an EIS, where interested agencies, tribes, and the public have the opportunity to comment on issues to be focused on in the EIS.

Scoping notice: see "determination of significance" and "scoping"

SEPA Rules: Chapter 197-11 WAC, the rules adopted by the Dept of Ecology to implement the Act.

State Environmental Policy Act: Chapter 43.21C RCW

What is SEPA?

The **State Environmental Policy Act**[1] (SEPA) was adopted in 1971 to ensure that environmental values were considered during decision-making by state and local agencies.

The environmental review process in SEPA is designed to work with other regulations to provide a comprehensive review of a proposal. Most regulations focus on particular aspects of a proposal, while SEPA requires the identification and evaluation of probable impacts to <u>all</u> elements of the built and natural environment. Combining the review processes of SEPA and other laws reduces duplication and delay by combining study needs, combining comment periods and public notices, and allowing agencies, applicants, and the public to consider all aspects of a proposal at the same time.

This guide is meant to provide a general overview of the SEPA process for project applicants. We understand that first experiences with unfamiliar processes are often frustrating. It is our hope to make the SEPA process as simple and understandable as possible for you.

> The SEPA process is used to identify and assess likely impacts to <u>all</u> elements of the built and the natural environment.

As we discuss the SEPA process and your part in it, you may find it helpful to look over and refer to the flow chart on the back cover of this booklet. You will also find a glossary starting on page 11 to help you with unfamiliar terms. If after reading through the guide, you have any questions, additional resources are listed on the inside of the back cover or you may contact the agency you are working with.

[1] Chapter 43.21C RCW

Where do I begin?

The SEPA process most often begins when you submit the first permit application for your proposal to a state or local agency. It may also be possible for you to have a pre-application meeting to discuss your project, permit requirements, and the SEPA process with the agency(ies) involved.

Not all projects require SEPA[2]; it is dependent on the size and character of what's proposed. The agency that will be making decisions on your project will tell you whether SEPA is required for your proposal.

> It is helpful to understand that SEPA is not a permit or approval; it is a process.

You, as the project applicant, will have responsibilities, such as filling out an **environmental checklist,** which asks questions about your proposal. Supplying accurate and complete information can save both time and money.

Most steps in the SEPA process will be handled by the agencies that will issue permits or other approvals for your project. One agency is identified as the SEPA "**lead agency**" and is responsible for completing the SEPA process. The determination of who is lead agency for your proposal is the chore of the agency who receives the first permit application, but in most cases the lead agency will be the city or county permitting your project.

Lead agency responsibilities include:

- Reviewing all environmental aspects of your proposal, including those under the jurisdiction of other agencies;

[2] See **categorical exemptions** in the glossary for additional information.

If comments are received on a:

- **DS/Scoping notice**: the lead agency will consider the comments when they make decisions on what will be assessed in the EIS.
- **Draft EIS**: the lead agency must respond to them in the final EIS. This may involve changes to the alternatives and/or analysis, or may require new issues to be assessed.
- **DNS**: the agency will evaluate the comments to decide how they should best be addressed and may require additional analysis. The DNS may be retained or modified, or it may be withdrawn and the significance of adverse impacts reconsidered.

What if I change my mind?

Changing your proposal after starting the review process can have a drastic effect on the ease or difficulty in completing the review process and receiving your permits. If adverse environmental impacts are avoided by the change, you are likely to ease the permitting process and may even avoid the need to do an environmental impact statement. On the other hand, if the review process is nearly or fully completed, significant changes may require portions of the process to be repeated. Incorporating environmental considerations with good planning is your best tool for a fast, efficient review process. If you choose, you may stop the review process at any time, simply by withdrawing your permit application.

impacts. The lead agency determines how the EIS will be written, and they may ask or allow you to help in the preparation.

The first step in the EIS process is called **scoping**. The public, interested tribes, and other agencies are asked to make comments suggesting areas of likely impact, potential mitigation, and possible alternatives to be examined in the EIS.

After scoping, the lead agency must decide what will be covered in the EIS. They are not required to cover every alternative identified during scoping, but are likely to choose a number of alternatives that they feel cover the range of reasonable options. You, as the proponent, may be allowed some input in the shaping of the alternatives to be evaluated, but the decision lies with the lead agency. At minimum, SEPA requires the evaluation of the proposal and a "no-action" alternative. The "no-action" alternative is usually defined by how things would be if there were no proposal.

The lead agency will issue the draft EIS with a 30-day public comment period, with a possible 15-day extension. The lead agency will then prepare a final EIS, which must respond to comments received on the draft EIS. Agencies may make permitting decisions needed for your proposal seven days after the final EIS is issued.

What if someone comments?

One of the purposes of SEPA is to involve other agencies and the public in the review process. By allowing the public and agencies to comment on a SEPA document, concerns can be identified and evaluated before permits are issued. This can result in better proposals and greater community acceptance of the final project.

- Identifying potential adverse environmental impacts;
- Determining whether the environmental impacts of your proposal are likely to be significant after identified **mitigation** is applied;
- Issuing the SEPA documents. (See SEPA Project Review, below.)

SEPA Project Review

The SEPA review process will begin for your proposal when you submit a completed environmental checklist. After initial review of the checklist, the lead agency must decide if they have enough information to identify the potential adverse environmental impacts of your proposal or whether additional information is required.

> You may take as long as necessary to submit any additional information requested, but the agency is not required to continue processing your application during that time.

Mitigation measures may be needed for adverse environmental impacts that are identified. Mitigation measures are changes or conditions added to your proposal that will avoid, minimize, or compensate for adverse impacts.

- If your proposal is not likely to have a significant adverse environmental impact or mitigation has been identified to reduce the impacts sufficiently, a **determination of nonsignificance** (**DNS**) can be issued. The DNS may have a public and agency comment period.

- If mitigation cannot be easily identified to sufficiently reduce the likely significant adverse impacts of your proposal, an environmental impact statement (EIS) will be needed. The EIS is used to analyze your proposal, reasonable alternatives, and other methods that may be

used to reduce or eliminate the adverse environmental impacts of your proposal. The lead agency begins by issuing a determination of significance (DS)/scoping notice for agencies and the public to review. "Scoping" is done to identify key issues related to your project that will be evaluated in the EIS.

Agencies will use the information in the EIS or DNS when they are making permit decisions. Permit conditions may be added to reduce the adverse impacts of your proposal. Under very rare circumstances, if an EIS shows there are likely adverse environmental impacts that cannot be reduced to an acceptable level, licenses or other approvals for your proposal may be denied.[3]

Integrated Project Review

If a city or county planning under the Growth Management Act (GMA) will be issuing a permit or other approval for your proposal, they must also follow the procedures of the Local Project Review Act[4]. Although many aspects of the Local Project Review Act are similar or related to SEPA, they are separate laws. The purpose of the Local Project Review Act is to provide an opportunity for public and agency involvement early in the project review process and to fully integrate permit review with environmental review.

When a GMA city or county receives your permit application and any additional information they determine necessary to begin their project review, they will issue a "determination of

A determination of completeness does not guarantee that additional information and/or studies may not be needed later in the review process.

[3] It is also possible for permits to be conditioned or denied under applicable permit regulations.
[4] Chapter 36.70B RCW

What is "mitigation"?

During review of your proposal, the lead agency may identify possible adverse environmental impacts. If so, you and the agency can work together to identify ways to reduce the impacts, either through changes to the proposal or identification of mitigation measures. Mitigation measures are usually conditions placed on the permit or approval.

The SEPA Rules describe **mitigation** as avoiding, minimizing, rectifying (repairing), reducing, eliminating, compensating, or monitoring of environmental impacts.

Mitigation may involve almost anything, such as paying impact fees to local school districts, or changing the design of the project to avoid impacts to wetlands or other sensitive areas. Some mitigation may be required by city or county development regulations, or other local, state, or federal laws. Mitigation can also be based on information on adverse environmental impacts in the SEPA document.

What if I need an EIS?

When the lead agency reviews your proposal, they will attempt to identify mitigation for any adverse environmental impacts (see "What is Mitigation?" above). If the lead agency determines that your proposal, with the mitigation identified, is still likely to have a significant adverse impact to the environment, an **environmental impact statement** (EIS) is required. The **EIS** evaluates the adverse environmental impacts of various alternatives and explores possible mitigation to reduce the

from the lead agency for your proposal. You may wish to talk this over with them before you get too far along in the process.

Does every permit go through SEPA again?

Usually, the lead agency completes the environmental review process for the entire proposal. All agencies that have permits to issue use the lead agency's environmental analysis and documentation in their decision-making. There are a few exceptions:

❖ NEPA is required by a federal agency

If you need a permit, approval, or funding from a federal agency, you may need to comply with the National Environmental Policy Act (NEPA). NEPA is very similar to SEPA, but it is a federal law and distinct from the state law. With good planning, the requirements of both NEPA and SEPA can be met at one time. It is also possible for NEPA documents to be adopted by state and local agencies to fulfill SEPA requirements (at the discretion of the SEPA lead agency). If you know that you will require federal permits for your project, it is a good idea to discuss the situation with the SEPA lead agency to see how NEPA and SEPA can best be completed.

❖ Additional studies are needed by another agency

Other agencies that must issue a permit, approval, or funding for any portion of the proposal may need additional studies beyond those identified by the lead agency. These may be required under permit regulations, or through SEPA.

completeness." The determination of completeness is not a SEPA document, but is the first step in the integrated project review process.

Soon after issuing the notice of completeness, the GMA city or county will issue a "notice of application." The notice of application is sent to interested agencies, and the public is given notice that they have 14 to 30 days to review and comment on your proposal. This provides an opportunity for other agencies and the public to become involved early in the review process when it is easiest for any needed changes to be made.

If the GMA city or county is also the SEPA **lead agency** for your proposal, at the agency's option, the comment period for the notice of application may be used to solicit comments on the DS (issued together) or the DNS (which is issued after the comment period ends).

The integrated project review process ends with the GMA city or county issuing a notice of decision that states the decisions made on the project permit applications.

Filling out the Checklist

Your first step in the SEPA process is filling out the **environmental checklist**. The checklist has questions about your project and both the built environment (land use, transportation, utilities and services, etc.) and the natural environment (water, air, plants, animals, etc.). As you complete the checklist, you should think of ways to reduce the impacts of your project. Modifications made by you or the permitting agencies are most easily integrated early in the development of your proposal.

The standard environmental checklist form can be found within the **SEPA Rules** at WAC 197-11-960. The SEPA Rules allow lead agencies to change Part A of the checklist to better suit their needs, and Ecology is

working on development of a new checklist format that may be adopted in the near future. For these reasons, it is best for you to get a copy of the checklist directly from the lead agency.

In most cases, you should be able to adequately answer most, if not all, of the questions yourself based on a familiarity with the project and the site. A consultant may be needed if your proposal is complex or additional studies, such as a wetland report or transportation study, are requested by the lead agency. Some applicants prefer to hire a consultant to complete all of the necessary paperwork.

Before you begin, scan through the checklist, so you are familiar with the range of questions. Often, one question will bring to mind information that will help you answer another more completely. Your complete and accurate answers on the checklist helps the agency determine what other agencies will have decisions related to your project, who will be **lead agency**, and how your proposal is likely to affect the environment. The checklist also provides information to other permitting agencies and those interested in your proposal.

Complete each question to the best of your ability. An answer of "not applicable" should only be used after careful consideration of the question. Failing to provide adequate information is likely to delay the process.

Under "Land and Shoreline Use," you may have to consult with the city or county that has immediate jurisdiction over the site to determine zoning, comprehensive plan and shoreline master plan designations, and whether the site lies within a "critical area." You are also encouraged to use any existing environmental analysis related to your proposal. Relative studies may have been completed for local planning documents, such as a comprehensive plan or subarea plan, or for similar types of projects nearby.

Giving information on past actions, related off site activities, and/or future expansions or activities planned in connection with your proposal allows the lead agency to decide what activities should be evaluated together. If enough information is available, the lead agency is able to complete the SEPA process for all related activities at one time. This can save both time and money by avoiding going through the SEPA process for each new addition or expansion, and speeding the permitting of later phases.

How long will this take?

SEPA review is intended to be integrated throughout an agency's permit review process, rather than a separate step. Most agencies make sincere efforts to process permit applications as efficiently as possible, while still addressing regulatory and environmental concerns. The time needed to review your proposal will depend on the permits needed, the complexity of the project, the amount of information already available, and the need to complete additional analysis or studies. In many cases, project review may be completed in two or three months. On the other hand, completing project review for some complex projects may take years. The SEPA lead agency can give you the best information on when their project review may be completed. (You may also wish to discuss timing of permits and approvals with other agencies involved with your project, to help you know what to expect.)

How much will this cost?

Agencies are allowed to charge applicants for SEPA processing. These fees are not set by state law but by agency ordinances, and so will vary greatly between one agency and another. If additional studies, such as a wetland delineation or traffic study, or an environmental impact statement are required, costs will be much greater. The best guidance is likely to be